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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,738	01/27/2004	Roland Hengerer	10022/580	2842

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EXAMINER	
DESTA, ELIAS	

ART UNIT	PAPER NUMBER
2857	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/766,738	HENGERER, ROLAND	
	Examiner	Art Unit	
	ELIAS DESTA	2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 March 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-8,10-12 and 14* is/are allowed.

6)☒ Claim(s) *9* is/are rejected.

7)☒ Claim(s) *13* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

Response to Argument

1. In view of the appeal brief filed on March 3, 2008, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing at the end of this Office action.

Response to Argument

2. The rejection of claims 1-14 has been withdrawn. However, upon further consideration of claim 9, a new ground(s) of rejection is made in view of *Hunt et al*. (WO 99/45514, hereon *Hunt*) and *Cleary* (U.S. Patent 5,811,152).

3. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Claim rejection – 35 U.S.C. 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 9 is rejected under 35 U.S.C. 102(b) as anticipated by *Hunt et al*. (WO 99/45514, hereon *Hunt)*.

In reference to claim 9: *Hunt* teaches a method of marking an object with volatile identification code (chemical code) (see *Hunt*, Abstract and page 4, lines 1-10 and lines 32-35). The method includes spraying first volatile component (chemical discharged from the canister the first time) onto the object; and spraying a second volatile component (spraying fluorescent dye on traces of the objects) onto the object wherein volatile characteristics of the first and second volatile components sprayed on the object define the volatile identification code (Hunt's chemical code).

The chemical discharged from the canister (see *Hunt*, abstract and page 10, lines 10-25) represents the first volatile component applied onto an object (such as hair samples of the attacker) (see *Hunt*, page 11, Example 2, lines 12-16), and then, later on, spraying fluorescent dye on the traces of objects, such as hair sample collected from the crime scene (the samples have been sprayed on by the first volatile component) provides the resin matrix which is collected from the individual indicates a unique chemical code (claimed volatile identification code). Further, a taggant can be included with the volatile substance for identifying a particular source of the taggant where a subset of indicators selected from a pre determined set of

indicators in the subset of indicators identifies the particular source of the taggant (see *Hunt*, page 20, lines 1-7; and Hunt's claim 45, page 20).

6. Claim 9 is rejected under 35 U.S.C. 102(b) as anticipated by *Cleary* (U.S. Patent 5,811,152).

In reference to claim 9: *Cleary* teaches a method of marking an object with volatile identification code (see *Cleary*, abstract). The method includes spraying a composition of *more than one* fluorescent material (considered first and second volatile components) onto an object (see *Cleary*, column 4, lines 58-67), wherein volatile characteristics of the volatile components (in combination) sprayed on the object define the claimed volatile identification code (UV absorption spectrum or fluorescent emission spectrum, interpreated as ID codes) (see *Cleary*, column 4, lines 13-22 and column 5, lines 5-25). In this instance, the combination/composition is used at the same time to identify the object; i.e., the spraying of the first and second volatile components occurs at the same time and is considered to meet the claimed language as the claim does not limit spraying to a particular sequence.

Allowance

7. Claims 1-8, 10-12 and 14 are allowed. The following is an examiner's statement of reasons for allowance:

In reference to claims 1, 8, 10 and 12: *Kita* (SHIMADZU Article, 'Attempts at Simplified Measurement of Odors in Japan Using Odor Sensors') teaches a method for determining a method that permits an identification of similarity of measured odor to a pre-measured odor (see *Kita*, page 145, second and third paragraphs). The method includes two measured vectors, light

components and heavy components correspond to sensor (A) and sensor (B) respectively. The length of the vectors (see *Kita*, page 145, Fig. 3 and the second paragraph) defines the sent strength (intensity). The decay rate constant during the measurement associated to each measurement is relative to the measurement of the odor and is inherent in the measurement process. This is the state of the art.

The primary reason for the allowance of claim 1 is the inclusion of the limitation: "…measuring simultaneously a second strength of a second scent of said object with a second electronic sensor, … calculating current scent ratio of said first and second scent strength, and calculating said age of said object starting from a reference time for which a reference scent ratio of said scent strengths has been registered."

The primary reason for the allowance of claim 8 is the inclusion of the limitation: "…measuring simultaneously a second strength of a second scent of said goods with a second electronic sensor, … calculating current scent ratio of said first and second scent strength, and calculating said freshness of said goods starting from a reference time for which a reference scent ratio of said scent strengths has been registered."

The primary reason for the allowance of claim 10 is the inclusion of the limitation: "…introducing into an impermeable seal attached to said object a first volatile component; introducing into said impermeable seal a second volatile component; simultaneously determining a first scent strength of said first volatile component and a second scent strength of said second volatile component at a time when said impermissible seal is unbroken; determining a reference scent ratio from the first scent strength and second scent strength; and determining whether said impermeable seal is broken based on the reference scent ratio."

The primary reason for the allowance of claim 12 is the inclusion of the limitation: "…a first electronic sensor that generates a first signal in response to a first scent of said first volatile component; a second electronic sensor that generates a second signal in response to a second scent said second volatile component; a calculating unit for calculating a current scent ratio based on said first and second signals, and for extracting said age of said object from a reference time for which a reference scent ratio is registered and a display for displaying an indicator of said age."

It is these limitations, as recited in combination with the dependent claims 2-7, 11 and 14 which are found in each of the claims but are not found, taught or suggested in the prior art of record, that makes the claims allowable over the prior art.

Claim Objection

8. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art on record do not teach the limitation "...sensing said volatile characteristics via a set of sensors that generate distinctive signature that are associated with spraying both said first volatile component and said volatile component on said object."

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Anderson, II et al. (U.S. Patent 5,474,937) teaches method of identifying chemicals by use of non-radioactive isotopes for the purposes of detecting the source of a transported chemical shipment.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIAS DESTA whose telephone number is (571)272-2214. The examiner can normally be reached on M-Fri (10:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on (571)-272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elias Desta
Examiner
Art Unit 2857

- E.D.
- May 14, 2008

/Eliseo Ramos-Feliciano/
Supervisory Patent Examiner, Art Unit 2857